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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,458	08/14/2000	ANDREAS SASSE	RBL0064	3399

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EXAMINER

SHARMA, SUJATHA R

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/600,458	SASSE, ANDREAS	
	Examiner	Art Unit	
	Sujatha Sharma	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eul [DE 196 10 840 A1] in view of Basso [US 6,317,131] and further in view of Sugita [US 6,564,048].

Regarding claim 1, Eul discloses a procedure to load electronic games on a mobile communication transmitter of a mobile communication network. Further, Eul discloses a method of communicating between a subscriber (MS in Fig.1) and value added service node (SE/SCP IN Fig. 1) relative to value added services offered with the objects, the objects including one of executable programs, functions and data and further controlling, modifying or executing the objects via the wireless interface of the mobile communication system (see translation document: Fig. 1, page 5, paragraphs 1,2; page 6, paragraph 2; page 7, paragraphs 1,2; page 11, paragraphs 1,2). Eul further discloses the method of transferring, activating, modifying and updating taking place via SMS (see translation document: page 13, paragraph 2). Eul however does not disclose a method of verifying the technical capability of the communicating device and further the application/object adapting to the technical capability of the communication device that has requested the object/application and loading into the mobile station an object suitable to the

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technical capabilities of the mobile station, wherein the technical capabilities of the mobile station are stored in a special database.

Basso teaches this limitation where multimedia data is displayed based on both the user preferences and terminal capabilities (see background of invention, summary of invention, col.2, lines 54-58, col. 3, 15-40).

Eul and Basso are combinable since they are from the same field of endeavor, i.e., interaction for multimedia delivery and presentation using nodes in a communication network. At the time of invention, it would have been obvious to one with ordinary skill in the art to provide the teachings of Basso to Eul in order to launch the object in an optimal manner that uses only those properties and features that are available on the particular portable device.

Eul and Basso teach all the limitations as claimed. However they fail to teach a method of comparing the version number of the available object with a version number of the object available in the mobile station and loading the more up-to-date object in the mobile station.

Sugita, in the same field of endeavor, teaches a method of comparing the version number of the available object with a version number of the object available in the mobile station and loading the more up-to-date object in the mobile station. See col. 2, lines 23-45 and col. 3, lines 42-54.

Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to include the teachings of Sugita to Eul and Basso so that the value added service with more improved features can be used.

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Regarding claims 2, Eul further discloses a method where the applications/objects are loaded via the aerial interface (see translation document: Fig. 1, page 5, paragraphs 1,2; page 6, paragraph 2; page 7, paragraphs 1,2; page 11, paragraphs 1,2).

Regarding claim 3, Eul further discloses a method where the applications are loaded and modified by the operators via wireless interface (see translation document: Fig. 1, page 5, paragraphs 1,2; page 6, paragraph 2; page 7, paragraphs 1,2; page 11, paragraphs 1,2).

Regarding claim 4, Eul further discloses the method of displaying the applications/objects in a menu application (see translation document: page 6, paragraph 2).

Regarding claim 5, Eul further discloses a method where an application enables the response to a query by means of loading a new object/application in dependence of the action previously executed (see translation document: Fig. 1, page 5, paragraphs 1,2; page 6, paragraph 2; page 7, paragraphs 1,2; page 11, paragraphs 1,2).

Regarding claim 6, Eul further discloses a method where the applications are stored in a central database/server and is loaded into the mobile station (see translation document: Fig. 1, page 5, paragraphs 1,2; page 6, paragraph 2; page 7, paragraphs 1,2; page 11, paragraphs 1,2).

Regarding claim 7, Eul further discloses a method where the applications are loaded and stored in the permanent memory of the mobile terminal (see translation document: Fig. 3 and page 12).

Regarding claims 9, Eul further discloses the method of transferring, activating, modifying and updating taking place via SMS (see translation document: page 13, paragraph 2).

Regarding claims 10,15 Eul further discloses a method where keys/combination of keys are allocated by the applications to indicate functions of Value added services (see translation document: Fig. 3 and page 12)

Regarding claims 11 and 12, Eul further discloses a method where the loading of the application(s) is carried out by selected events initiated by the subscriber (see translation document: Fig. 1, page 5, paragraphs 1,2; page 6, paragraph 2; page 7, paragraphs 1,2; page 11, paragraphs 1,2).

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eul [DE 196 10 840 A1] Basso [US 6,317,131] and Sugita [US 6,564,048] in view of Michaels [US 6,011,976]. Regarding claim 8, modified Eul teach all the limitations as claimed. However they fail to teach a method of downloading the object/game into the subscriber identity module (SIM) of the mobile unit.

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Michaels, in the same field of endeavor, teaches a method of downloading application data file programs into the SIM card (see col. 5, line 45 – col. 6, line 36).

Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to include the teachings of Michaels to modified Eul in order to facilitate the user to access the object/game even if the user has been disconnected from the mobile phone network.

Response to Arguments

4. The applicant argues that Eul and Basso are analogous art and therefore cannot be combined. In response to applicant's argument that Basso is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the teaching of verifying the technical capability of the terminal and further adapting the object to be loaded according to the technical capability is taken from Basso. Both the references are in the same environment i.e. processing/computing environment, for example – a PDA which has a CPU in it. Therefore the reference is held as a valid prior art and the rejection of the claims as discussed above is considered proper.


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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sujatha Sharma whose telephone number is 703-305-5298. The examiner can normally be reached on Mon-Fri 7.30am - 4.00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sujatha Sharma
November 8, 2004


NAY MAUNG
SUPERVISORY PATENT EXAMINER